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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

ANDRE HARRIS,

Defendant.

Case No. 2:96-cr-00095-LDG

ORDER

Defendant has filed a motion under 28 U.S.C. §2255 to vacate, set aside, or correct sentence by a person in federal custody (ECF Nos. 195, 196). The defendant has, on numerous prior occasions, moved for relief pursuant to §2255 or has moved for relief by motions or other papers that the court has been required to treat as brought pursuant to §2255. Therefore, the present motion is a second or successive motion for §2255 relief. This court cannot consider the defendant's successive §2255 motion unless it is certified by the Court of Appeals. The defendant has not obtained that certification.

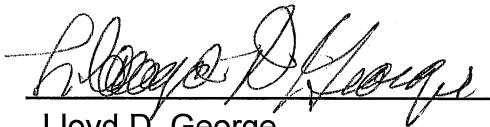
To appeal the present Order, the defendant must receive a certificate of appealability. To obtain that certificate, the defendant "must make a substantial showing of the denial of a constitutional right, a demonstration that . . . includes showing that reasonable jurists could debate whether (or, for that matter, agree that) the petition should

1 have been resolved in a different manner or that the issues presented were adequate to
2 deserve encouragement to proceed further.” *Slack v. McDaniel*, 529 U.S. 473, 483-84
3 (2000) (quotation omitted). This standard is “lenient.” *Hayward v. Marshall*, 603 F.3d 546,
4 553 (9th Cir. 2010) (en banc). As the record is plain that the defendant has previously
5 sought relief pursuant to §2255, and is plain that he has not obtained leave of the appellate
6 court to file a successive petition, no reasonable jurist could debate that this Court cannot
7 entertain the present §2255 motion. Accordingly, the Court will deny a certificate of
8 appealability. Therefore,

9 THE COURT **ORDERS** that Defendant Andre Harris’ Motion under 28 U.S.C. §2255
10 to Vacate, Set Aside, or Correct Sentence by a person in federal custody (ECF Nos. 195,
11 196) is DENIED.

12 THE COURT FURTHER **ORDERS** that a Certificate of Appealability for this Order is
13 DENIED.

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15 DATED this 26 day of February, 2019.

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18 Lloyd D. George
United States District Judge
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